

# **AFN IMPLEMENTATION STUDY**

**Proposals to the United States Congress  
to implement recommendations of the  
Alaska Natives Commission  
pursuant to P.L. 104-270**



**Alaska Federation Of Natives**

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## **DEDICATION**

This AFN Implementation Study, published on December 31, 1999, is dedicated to the loving memory of Herbert Hope, who died on Christmas Day of this year. Mr. Hope was a member of the AFN Board of Directors and of its Planning Committee, which oversaw production of this report. A commercial fisherman and a career employee of the Bureau of Indian Affairs, he was an outstanding leader of Native institutions in Southeast Alaska (Tlingit and Haida Central Council, Alaska Native Brotherhood). Herb was from the Tloo-Ka Hit (Point House) of the Kiks.adi Clan of Sitka. His Tlingit name was Chont'kee and his Kiks.adi name was Stoon-nukw. He was Kaagwaantaan yadi, a grandchild of the Teikweidi and a great-grandchild of the Wooskkeetaan. As we mourn his loss, we celebrate his remarkable life.

## PREFACE

The AFN Implementation Project is part of a continuum of reports highlighting the critical situation of Alaska Natives and a series of hearings of which arose proposing actions to address problems.

Ten years ago, the Alaska Federation of Natives (AFN) published the “Report on the Status of Alaska Natives: A Call for Action.” Subsequently, Congress created the Alaska Natives Commission to carry out the first comprehensive assessment of the social, cultural, and economic condition of Alaska’s Natives. The commission summarized its extensive hearings and conclusions in a three-volume report issued in 1994.

Congress enacted Public Law 104-270 in 1996. That law provided for a grant to the Alaska Federation of Natives to examine the recommendations of the Alaska Natives Commission, to study pertinent initiatives in the United States and elsewhere, to conduct hearings on ways to implement the commission’s recommendations, and to recommend to Congress enactment of specific provisions of law and other actions to implement such recommendations. The AFN Implementation Report is the result of this process.

On behalf of the Alaska Native community, AFN thanks the U.S. Congress for its attention to Alaska Native issues and looks forward to actions on the recommendations contained in this report.

Julie Kitka, President  
Alaska Federation of Natives

Special thanks are extended to the following individuals for their hard work and dedication during this process:

Project Direction, AFN Planning Committee whose membership included: Tom Tilden, Chair; Herbert Hope; Rosita Worl; Gloria O’Neil; and Terry Hoefflerle.

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## **INTRODUCTION**

In accordance with Public Law 104-270, enacted by the U.S. Congress in 1996, the Alaska Federation of Natives (AFN) has conducted an extensive process to develop recommendations to implement the Alaska Natives Commission report. Rather than reworking the same ground, we used the commission's work as the point of beginning.

Only Commission recommendations that: 1) give the fullest promise of improved life opportunities to large populations of Alaska Natives; 2) require further analysis and study to make a compelling case for action; 3) are appropriate as subjects of Congressional rather than state action; and 4) that these be guided by the overarching principles of the report were selected for further analysis and consideration by AFN.

The three major study areas included governance, substance abuse and expanding job opportunities. The recommendations contained in this report are based on these three studies as well as subsequent hearings within the Native community.

The AFN process found that although most previously identified social, cultural, and economic problems persist, progress is being made. Innovations are coming about in areas of self-governance, education, delivery of health and other services, and other endeavors. Such progress has come about through both the efforts of Alaska Natives and the support provided by the Congress and federal agencies. Yet, social and economic needs remain tremendous, and it is toward meeting these that the AFN process has been directed.

As directed by Congress, the AFN Implementation Study examined recommendations of the Alaska Natives Commission and looked at successful initiatives in the United States and elsewhere. AFN held extensive hearings in the Alaska Native community, and consulted widely with different groups, including the Alaska Commission on Rural Governance and Empowerment. The resultant priority topics covered by this report are Alaska Native self-governance, jobs and economic development, substance abuse, education, and subsistence.

This report has a strict focus on recommendations. So as not to detract from this focus, we hold explanations to a minimum. Background and related research material are not presented here. They are available and will be marshaled as needed to back up and implement specific proposals.

Alaska's Native community was thoroughly involved in fashioning the report's recommendations. Participants at AFN conferences considered major recommendations and themes as part of a continuing process. Hundreds of comments and proposals were received in the hearings conducted throughout Alaska. Research reports commissioned by AFN as part of the study were distributed to organizations and individuals for their review. The work of many task forces and other efforts also fed into the process. AFN convention resolutions, hearing transcripts, research reports, and other documents are available.

AFN offers the recommendations as a starting point to address the issues and conditions that were pointed out in the Alaska Native Commission report.

The AFN Implementation Report has been approved by AFN's Board of Directors.

### **A. ACHIEVING ALASKA NATIVE SELF-GOVERNANCE**

#### **Strengthening self-governance authority**

This AFN study and the Alaska Rural Governance Commission report both reconfirm the conclusions of the Alaska Natives Commission that **Alaska Native self-governance is an essential element in overcoming economic and social problems in rural Alaska**. All make clear that sustained, successful economic development and sustained improvement of social conditions can only be achieved by communities whose decisions, resources, and internal affairs are controlled at the local level -- by the people who bear the consequences.

Alaska Native tribes have been recognized by the federal government and their inherent powers of self-government over their members have been recognized by the Alaska Supreme Court in *John v. Baker* (No. S-8099, September 8, 1999).

The Alaska Native Claims Settlement Act (ANCSA) was established to settle land claims and develop economic engines to develop Alaska Native economies. ANCSA corporations are also recognized as tribes for special statutory purposes in over 100 federal legislative acts which were enacted to advance the socio-economic welfare of Native people. ANCSA's purposes and effective tribal governments are complementary and not inconsistent.

AFN, therefore, recommends that Congress:

**A1. Amend federal Indian legislation in order to explicitly clarify and strengthen Alaska Native decision-making powers and responsibilities in programs that affect Native communities and families, including alcohol control, child welfare, education, public safety, resource management, environmental protection, and other programs.**

**A2. Amend ANCSA to authorize land transfer of 14(c)(3) municipal lands to tribes and to include lands acquired by Alaska tribes as trust lands.**

### **Contracting and compacting**

Contracting and compacting under federal programs have, where applied, proven effective in improving the way federal responsibilities are carried out, improving service delivery, and increasing local self-reliance and self-determination.

Self-governance compacting, in particular, helps attain greater efficiency in the expenditure of federal funds and allows more money to be spent locally without a federal agency acting as middleman. It helps streamline paperwork, reduce overhead and other deductions, and it provides opportunities for combining different programs and funding sources at the local level. However, only the Indian Health Service and Bureau of Indian Affairs currently have compacting authority.

**A3. Encourage and achieve greater Native participation and decision making in all federal programs through consultation, contracting, and compacting.**

**A4. Expand contracting and compacting authority to all federal agencies and all federally funded programs in Alaska and ensure preference to Native management.**

**A5. Effect full and expeditious disclosure by federal agencies of all operating and related**



**administrative budget and cost data in negotiating contracts and compacts.**

### **Co-management**

Resource co-management arrangements have emerged in recent years as an effective means of implementing national goals and carrying out federal responsibilities in consonance with Native cultures and knowledge. Agreements to date have been directed mainly toward developing effective and sustainable systems of wildlife management that are consistent with both Native and federal and state responsibilities for preserving and protecting natural resources.

**A6. Authorize and extend co-management to all wildlife, fish, and land and subsurface (including public domain, parks, forests, refuges, and other reserves) where significant Native interests exist in such natural resources.**

### **Adequate and equitable financial support**

Tribal governments are the principal governing institution in most Alaska villages, yet are usually seriously underfunded to carry out basic local functions, such as public safety, conflict resolution, child welfare, alcohol enforcement, and others. The Joint Tribal/BIA Advisory Task Force recommended annual base funding of small tribes at \$160,000 nationally, which has been achieved, and at \$200,000 in Alaska, for which the additional amount has not been appropriated.

**A7. Fund all Alaska tribes at a minimum \$200,000 base funding level.**

Bureau of Indian Affairs funding excludes Alaska tribes or providing them only limited support under resource management, tribal law enforcement and courts, roads, housing improvement, education, and other programs.

Further, despite the fact that Congress granted Alaska civil and criminal jurisdiction over Alaska Natives under P.L. 280, the state government has failed in its responsibilities by not providing adequate law enforcement and judicial services to Alaska Natives in rural Alaska.

**A8. Assure that more BIA funding categories be made available to Alaska and that contract support be fully funded, and specifically that Congress and the BIA provide tribal law enforcement and tribal court funding to Alaska.**

**A9. Ensure that Alaska Native regional tribal organizations are eligible to apply for federal funds, as well as individual Alaska Native tribes.**

### **Training Native managers**

The need for effective management of programs, projects, and self-governing institutions will grow as more Native communities take on contracting, compacting, project agreements, welfare program management, and other functions. That need can be met through the collaboration of Native organizations, both profit and non-profit, Alaska higher education institutions, tribal colleges, municipal associations, and other groups. The requirement now is for seed money to initiate Native self-governance management training programs. Once under way, it should be self-sustaining.

**A10. Provide assistance to the Alaska Federation of Natives to create an Institute of Alaska Native Self-Governance in cooperation with tribal colleges, the University of Alaska, and the Alaska Municipal League in order to provide training in general management, budgeting, personnel management, grant writing, negotiation, and other topics of interest to rural administrators and managers. A top priority will be increased capacity for economic development and project planning.**

**Principal sources**

Alaska Commission on Rural Governance and Empowerment, *Final Report to the Governor*. June 1999.

Alaska Federation of Natives, “Recommendations from Native Community: Self-Governance”. Report of Hearings, 1999.

Alaska Federation of Natives, Annual Convention Resolutions, 1999 and preceding conventions.

Alaska Natives Commission, *Final Report*. 1994.

Cornell, Stephen et al, *Achieving Alaska Native Self-Governance*. The Economic Resource Group, Inc., and Institute of Social and Economic Research, University of Alaska Anchorage, 1998. Final Report – AFN Version, May 1999.

## **B. CREATING JOBS AND ECONOMIC DEVELOPMENT**

### **Expanding economic opportunities in rural Alaska**

New studies undertaken by the Alaska Federation of Natives show that little has changed since 1994, when the Alaska Natives Commission concluded in its final report that “acute and chronic” unemployment was undermining Native society. Simply put, **Alaska Natives need more jobs and economic opportunities, in both the urban areas (where many people have migrated to because of the depressed economic conditions in their home communities) and in rural Native villages.**

Developments since that report was issued pose new threats to Native employment. Already marginal economies in many rural Alaska Native villages may be constrained even further by the new time restrictions that federal welfare reform imposes on benefits to the poor and unemployed. Also, the number of young Natives reaching working age is outstripping the number of new jobs being generated, a trend that is predicted to continue for at least the next decade.

Despite this sobering picture, however, **there are promising approaches Congress and the federal government can take to increase Native hire.** Meeting in its annual convention in October 1999, the Alaska Federation of Natives membership enacted Resolution 99-07, entitled, “Expanding Federal Job Opportunities For Alaska Natives,” specifying steps Congress and the federal government can take, both to carry out prior obligations to Natives that remain unfulfilled and to explore new ways to provide economic opportunities for Alaska Natives which outline the following initiatives.

**B1. Support pending legislation to require the Department of the Interior to contract, in a demonstration project, with six Alaska Native tribes or tribal organizations to manage conservation units or other public land units lying in close proximity to these Native entities, providing adequate operating funds.**

### **Expanding and enforcing Native hire and contracting**

Despite the passage of nearly 20 years since Congress enacted the Alaska National Interest Lands Conservation Act of 1980, Department of the Interior efforts to assure compliance with the Native hire and Native contracting provisions of ANILCA have been wholly inadequate.

**B2. Direct the Department of the Interior to comply with ANILCA’s Native hire and Native contracting requirements.**

Only three of 18 federal agencies operating in Alaska -- the National Park Service, Fish and Wildlife Service, and Bureau of Land Management -- are authorized to limit certain job opportunities solely to local residents with special knowledge of local conditions.

**B3. Expand local hire authority to all federal agencies operating in Alaska, and direct the recently formed Denali Commission to require Alaska Native hire provisions in all forms of employment or contracting the Denali Commission may sponsor.**

The federal government has successfully employed the use of force accounting to complete numerous construction projects in rural Alaska, but has largely confined the practice to village sanitation

projects. Under force accounting, the federal government provides materials, equipment and a project manager, while local government sets wages, hours, and conditions of employment, giving rural communities a greater degree of self-determination and providing rural Alaska Natives with valuable training and work experience.

**B4. Expand the use of force accounting project management methodology to all federally funded construction projects in rural Alaska, where feasible, and, to maximize the number of jobs, grant permission on force accounting projects to pay wages at the local prevailing wage rate rather than at levels required by the Davis-Bacon Act.**

#### **Coordinating Native hire**

Previously, there existed a federally sponsored Alaska Native Employment Network, whose coordinator worked with federal agencies, Native organizations, and individual job applicants trying to work their way through the complexities of the federal hiring process. Although apparently effective, the network was disbanded because of lack of funding and agency support.

**B5. Establish and fund a statewide Office of Native Hire Coordination.**

#### **Redefining unemployment**

The Department of Labor and federal Bureau of the Census do not count those in rural Alaska who report not looking for work “unemployed”, despite the fact that in many cases, the respondents say they are not looking for work because they realize there simply are no jobs available.

**B6. Direct the Department of Labor and federal Bureau of the Census to categorize non-working rural Alaska residents -- in communities where there is a jobs deficit -- as unemployed in their official counts, even if the respondents report not looking for work.**

#### **Developing transportation, energy and telecommunication infrastructure**

Failure to provide adequate federal funds and limitations of the distribution formula for Alaska for the Indian Reservation Roads Program has resulted in a decades-long backlog of work that should have been funded by this program in rural Alaska. Inadequate funding has deprived rural Alaska of transportation infrastructure critical to economic development and of jobs that would have resulted from construction projects.

**B7. Authorize a continuing appropriation of \$50 million annually for rural Alaska projects under the Indian Reservation Roads Program.**

**B8. Utilize federal authority and resources : 1) to ensure that state policies do not leave rural communities without light and heat due to exorbitant utility costs, and 2) to ensure continuing maintenance, upgrading and expansion of rural energy utilities that meet the fundamental needs of residential space heat, electricity and transportation.**

**B9. Utilize federal authority and resources to ensure that rural Alaska is not left behind in the development of worldwide telecommunications technology and of the economic opportunities that flow from it.**

### **Strengthening rural economies**

A near-universal complaint during AFN hearings on jobs and economic development in early 1999 concerned the lack of outreach by federal agencies to Alaska Natives in rural Alaska. While there are many programs and grants that Alaska Natives could qualify for, the agencies overseeing these programs are centered in the state's urban areas and make very little effort to inform rural tribal councils and Native organizations of their availability. Even when they do learn of a program's availability, most of these councils and organizations are understaffed. Also, most have no one trained to negotiate the extremely complicated process required to successfully apply for these programs.

**B10. Specify that Alaska Native tribes, corporations and other organizations are authorized to participate, with the necessary funding, in programs designed to promote development and employment in rural America through programs overseen by various federal agencies, and specifically to:**

- a. Direct the Department of Agriculture to maximize efforts to notify Alaska Native tribes, corporations and other Native organizations of rural development grants and programs for which they qualify and provide the technical information and assistance needed to successfully apply for these programs.**
- b. Direct the Department of Commerce to place more focus on economic development in rural Alaska, including technical assistance, seed money for business enterprises, adequate funding for rural Alaska planners through the Office of Economic Development Planning, and greater outreach and assistance to Alaska Native tribes, corporations, and other organizations qualified for Section 8-A minority contractor set-asides.**
- c. Direct the Department of Defense to contract with Alaska native tribes, corporations, and other organizations and train Alaska Natives to provide services to the department, such as computer programming, that would meet critical Native employment needs and help eliminate the current practice of loosening federal immigration policies to import foreign workers to meet the department's programming skills requirements.**

### **Principal sources**

Alaska Commission on Rural Governance and Empowerment, *Final Report to the Governor*. June 1999.

Alaska Federation of Natives, "Recommendations from Native Community: Jobs and Economic Development". Report of Hearings, 1999.

Alaska Federation of Natives, Annual Convention Resolutions, 1999 and preceding.

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McDiarmid, G. Williamson et al, *Expanding Job Opportunities for Alaska Natives*. Institute of Social and Economic Research, University of Alaska Anchorage, November 1998.

## **C. DEALING WITH ALCOHOL, DRUG AND INHALANT ABUSE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND RELATED PROBLEMS**

### **Strengthen ability to deal with problems**

This study, the Alaska Rural Governance Commission report, and other recent studies fully support and reinforce the findings of the Alaska Natives Commission that the tragic consequences of alcohol, drug and inhalant abuse in Alaska villages can only be resolved at the village level by Native people and tribal governments.

The Alaska Commission on Rural Governance and Empowerment report specifically recommends that tribes, through federal legislation, be empowered to find local solutions through enforcement of tribal ordinances in areas surrounding their villages and that there be adequate funding to effectively enforce, adjudicate, and otherwise implement tribal programs.

All studies and statistics demonstrate that domestic violence, sexual assault, child abuse, and other forms of violence are rampant in Alaska, and Alaska Natives, particularly women and children, are disproportionately victims of these crimes that violate the basic right of human beings to be safe and free from violence in their own homes and in their communities

AFN, therefore, recommends that Congress and, as appropriate, the Administration, take the following steps:

**C1. Establish clear civil and criminal authority for Alaska tribes to develop effective local programs to have control over and respond to alcohol, drug and inhalant abuse, domestic violence, and sexual assault at the community level -- and provide the necessary funding.**

**C2. Increase funding and support for programs that provide community outreach and education efforts, village initiatives, direct services for victims, and other innovative approaches to prevent domestic violence, sexual assault, and other violence against Alaska Native women and their families.**

**C3. Adequately expand program funding support to meet the needs of individuals and target groups, rather than reducing services to all because of limited appropriations.**

**C4. Provide for specific grants from the Attorney General to tribes and regional tribal consortia to assist Native communities with development of tribal ordinances prohibiting the use, manufacture, and importation of alcohol in their villages and with development and implementation of effective systems of enforcement and adjudication of such ordinances.**

**C5. Support the ability of Native communities to combat substance abuse by providing funding for local and regional programs through set-aside money designated for Alaska Native projects within the National Institutes of Health and the Substance Abuse and Mental Health Services Administration.**

### **Alcohol and substance abuse**

Fetal Alcohol Syndrome (FAS), Fetal Alcohol Effects (FAE), and other Substance Abuse Related Birth Defects (SARBD) are completely preventable. Yet, they are still entirely too common, not only in rural Alaska Native villages but also among Natives living in Alaska cities. The burdens on families and communities are extremely high: the estimated monetary lifetime cost of medical, disability services, and long-term care for each individual with FAS is \$1.4 million. Agreement is widespread that there is an urgent need for a comprehensive community-based approach to prevent FAS/FAE/SABRD and for a coordinated approach to diagnosis, treatment planning, treatment and service delivery.

**C6. Assist Alaska tribes, regional tribal consortia, and non-profit organizations with the prevention and treatment of Fetal Alcohol Syndrome (FAS), Fetal Alcohol Effects (FAE), and other Substance Abuse Related Birth Defects (SARBD) through the following actions:**

- a. Provide long-term support for a sustainable effort to implement and maintain prevention and early intervention substance abuse programs designed specifically for Native women of childbearing age and for young girls before they reach that age. Child care and family support systems must be provided for women in treatment.**
- b. Support multi-disciplinary approaches for diagnosis, treatment planning and treatment, cognitive retraining, and other special educational services for Native children and youths; group homes; and other activities to deal with those affected by FAS/FAE/SABRD.**
- c. Articulate FAS/FAE/SABRD as billable under Medicaid and other reimbursement programs.**

**C7. Develop and support innovative initiatives between treatment programs and domestic violence/sexual assault victim assistance programs. Support intervention models that address both substance abuse and domestic violence as separate but related issues.**

**C8. Develop and support initiatives to organize alcohol and drug abuse programs to respond to gender needs. (eg. Burden of family responsibility, absence of adequate child care for Native women seeking treatment)**

**C9. Develop and support initiatives within alcohol intervention treatment programs to specifically address the behavioral consequences of alcohol abuse. (eg. Child abuse, sexual crime, and domestic violence)**

**Family Resource Centers**

Disparate programs exist to deal with problems of infants, children, the disabled, the elderly, and others, as well as for alcohol and drug use, physical and sexual abuse, and mental health. We propose to bring together the resources of all such programs to help the community heal itself and its members holistically, without social stigma attached to any individual or family. This is particularly critical for the future, because in many villages 50 to 60 percent of the population is under 18 years of age.

**C10. Establish and appropriate funds for a major demonstration program in Alaska communities to set up family resource centers that are open to all members of the community and that provide a focus for all programs for children and families. It is recommended that at**



**least \$50 million be authorized at \$10million a year for five years.**

**Principal sources**

Alaska Commission on Rural Governance and Empowerment, *Final Report to the Governor*. June 1999.

Alaska Federation of Natives, "Recommendations from Hearings: Alcohol Abuse / Domestic Violence". 1999.

Alaska Federation of Natives, Annual Convention Resolutions, 1999 and preceding conventions.

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Institute for Circumpolar Health Studies, University of Alaska Anchorage, *Alaska Natives Combating Substance Abuse and Related Violence Through Self-Healing*. January 1999.

## **D. SUPPORTING ALASKA NATIVE EDUCATION**

### **Reauthorizing the Alaska Native Educational Equity, Support and Assistance Act**

A key finding of the Alaska Natives Commission was **the critical need to create and implement programs designed to improve the quality of education for young Alaska Natives.**

The Commission found that innovative education programs were needed to help reverse the deterioration of socio-economic conditions and the poor educational performance of many Alaska Native children, the majority of whom attend schools in small and remote traditional Native villages.

The Commission also urged that parents and community leaders become compelling voices in directing Alaska's formal education system; that the education system employ teachers and administrators knowledgeable about Native cultures and respectful of them; and that Alaska Natives receive an integrated education -- one that provides them not only with the skills to succeed in life, but also the understanding necessary to carry on their cultures' community values.

Other studies have noted a differential between Native men and women in the attainment of higher education and the reasons for and impacts of this need further analysis.

In response to these findings and recommendations, Congress adopted the Alaska Native Educational Equity, Support and Assistance Act of 1994 (108 Stat. 3805; 20 U.S.C. § 7931), incorporating it into the Elementary and Secondary Education Act. Although funding for Alaska Native education programs created under the Act was not authorized until 1997, **the Alaska Federation of Natives believes these new programs already have shown they can be of immense value in achieving the educational goals for Native children recommended in the 1994 commission report.**

AFN, therefore, recommends that Congress:

**D1. Reauthorize the Alaska Native Equity, Support and Assistance Act of 1994.**

**D2. Incorporate additional titles into the act to provide for Native language revitalization, including Alaska Native language immersion projects and the Alaska Rural Systemic Initiative/Rural Challenge Program.**

**D3. Increase funding under the act and the additional titles to a total of \$25 million annually, to expand the number of Native communities able to participate.**

**D4. Assess the implications of gender differential between Native men and women in attainment of higher education and implement strategies and appropriate programs to improve the success of all Alaska Natives in higher education.**

### **Program administration**

Under the act, three new education assistance programs – in the form of grants-in-aid administered by the U.S. Department of Education – were made available to Alaska Native organizations. They are the Alaska Native Educational Planning, Curriculum Development, Teacher Training and Recruitment

Program; (Sec. 9304); Alaska Native Home-based Education for Preschool Children (Sec. 9305); and Alaska Native Student Enrichment Programs (Sec. 9306).

Under current procedures, eligible Alaska Native organizations -- tribal entities, nonprofit associations and other groups acting alone or in partnership with schools or educational association -- apply to the Department of Education for grants to participate in these programs. While changes in management are needed, the involvement of Alaska Natives is essential to achieving program goals.

**D5. Continue issuing grants to Alaska Native organizations, acting alone or in partnerships.**

DOE has not promulgated regulations specific to Alaska; instead, Alaska programs are governed by general regulations applicable across the whole country. The Alaska Federation of Natives has had some role in setting guidelines for grants and in subsequent project evaluation, but more complete Native involvement is called for.

A more effective and comprehensive management approach to improving the education of Alaska Natives can be achieved by having all the programs under the act lodged in Alaska and managed by an Alaska Native entity. Fuller Native involvement will result in greater synergy and continuity.

**D6. Provide overall funding and management responsibility for programs under the Alaska Native Equity, Support and Assistance Act to an Alaska Native institution, rather than to the Department of Education.**

**Alaska Native Archives and Research Center**

Alaska Natives have experienced dramatic change during the past several decades as the result of rapid economic, demographic and technological development. But the dynamics of these changes are little understood by Native people and only minimally grasped by social scientists and policy makers.

Major examples of profound change include passage of the Alaska Native Claims Settlement Act, development of regional non-profits into major service providers, operation of ANCSA corporations throughout the state, the rebirth of tribal governments and the re-assumption of local powers and responsibilities, the persistent economic underdevelopment of rural Alaska, and the epidemic of behavioral pathologies in Native communities. Public policy does not keep pace with such rapid evolution because Natives and non-Natives alike don't understand the relationships between cause and effect, the individual and society, or technology and human behavior. There is a great need for social science research and analysis of such factors as a prerequisite to better governance and a healthier society.

There also is a critical need to preserve the historical record of life in Native communities and of the efforts undertaken by Native institutions to improve the standing of the people they represent, especially over the four decades that have passed since the Congress granted statehood to Alaska in 1959. The archival needs of Native institutions cannot be met by present resources. Instead, a federal effort to collect, maintain and use such documents is a necessity.

These twin requirements of research and collection must be affiliated with one or more academic institutions in order to ensure professional standards and top rate Native researchers.

**D7. Utilize federal authority and resources to create an Alaska Native Archives and Research**

**Center in Alaska.**

## **E. PROTECTING THE SUBSISTENCE HUNTING AND FISHING RIGHTS OF ALASKA NATIVES AND OTHER RURAL RESIDENTS**

The right to adequate food for oneself and one's family is a human right enumerated in the Universal Declaration of Human Rights of the United Nations Charter. Moreover, the protection of the aboriginal practice of subsistence hunting and fishing in Alaska is now the law of the land. As noted by the Alaska Natives Commission "subsistence is....a critical part of the larger historical question about the status, rights and future survival of Alaska's aboriginal peoples. The economic and cultural survival of Native communities is the principal reason why Congress enacted its rural subsistence priority in 1980. By articulating the federal government's traditional obligation to protect indigenous citizens from the political and economic power of the non-Native majority. Title VIII of ANILCA constitutes a landmark of Indian law. Such congressional action was...constitutional and appropriate."

Without a state rural subsistence statute, Alaska is out of compliance with ANILCA and the requirements of federal law. Because the Alaska legislature has refused for ten years to submit to the voters a constitutional amendment that would allow a rural priority in state law, the federal government has taken over regulation and management of subsistence hunting and fishing on all federal public lands and waters (almost two-thirds of Alaska's domain).

### **Strengthening federal protection of subsistence**

#### **E1. Congress should enact amendments to Title VIII of ANILCA that strengthen federal protections of subsistence, in particular:**

--Congress should require that, at any time the state is out of compliance, federal jurisdiction shall include all federal public lands and reserved navigable waters, all selected but unconveyed lands under the Statehood Act and the Alaska Native Claims Settlement Act, Native lands considered Indian country, any conveyed ANCSA lands agreed to by the Native corporations owning them, and federal "extraterritorial" authority over subsistence on state or other private lands and waters in order to provide for subsistence on federal lands and waters

--Congress should specifically provide for a subsistence defense in state or federal courts for any person accused of a fish or game violation

--Congress should add "cultural and religious" uses to the list of protected subsistence uses in Title VIII

--Congress should provide full statutory protection of the subsistence practices of Native communities which, through no fault of their own, have been dropped from the category of "rural" by non-Native population growth and socio-economic change -- recognizing that neither proxy hunting and fishing nor discretionary cultural/educational subsistence permits will adequately address this need

--Congress should require that federal agencies and the state contract to Native institutions, particularly to tribes and tribal consortia, as many subsistence management functions as are feasible and proper -- and that such delegated functions of co-management include effective roles in the regulatory process itself and in enforcement on the ground, not just counting fish runs, gathering soil samples, and

monitoring harvests

### **Maintaining federal statutory protection of subsistence**

The only legal force that can ensure the continued existence of rural and Native communities in Alaska is the power of federal law – which is why anti-subsistence groups are so determined to destroy Title VIII’s rural priority, just as they removed it from state law in 1989. Anti-subsistence state legislators demand congressional amendments to the federal statute as the price of a state constitutional amendment, since they would be delighted to allow state compliance with a toothless federal law that reduces subsistence rights to unenforceable rhetoric. AFN urges the Congress not to be drawn into that game and to stand fast in defense of the poorest and more traditional indigenous people in the nation.

**E2. Congress should not enact any amendment to Title VIII of ANILCA that Weakens current federal protections of subsistence, in particular the Congress should not incorporate into federal law: the current definition of Customary and traditional (the key term in defining subsistence); nor, diminish the current federal requirement that subsistence regulations cause the least adverse impact on local customary and traditional practices; not diminish the powers of federal courts or administrative agencies to oversee and enforce Title VIII protections; nor, require federal judicial deference to state decision or eliminate secretarial oversight or authority when the State is in compliance with federal law or allow state agencies discretion to define customary trade.**

### **Subsistence and the federal role**

AFN commends to the Congress and other policy-makers the findings and recommendations of two landmark studies of Alaska Native needs: the 1994 Report of the Alaska Natives Commission and the 1999 Report of the Governor’s Commission on Rural Governance and Empowerment.

## APPENDIX. AFN-COMMISSIONED STUDIES

Three major research studies were commissioned by the Alaska Federation of Natives to help provide the Native community with implementation of Alaska Natives Commission recommendations. Each study reviewed the existing situation in Alaska, identified problems and successes, examined pertinent experiences in the United States and Canada and in other countries, and provided directions for future policies and programs. The consultants' reports do not include recommendations, as that is the responsibility of the Native community.

Study reports can be found on Alaska Native Knowledge Network, as referenced below. The contents and executive summary depict the scope of each study.

Cornell, Stephen et al, *Achieving Alaska Native Self-Governance*. The Economic Resource Group, Inc., and Institute of Social and Economic Research, University of Alaska Anchorage, 1998. Final Report – AFN Version, May 1999.

[<http://www.ankn.uaf.edu/Self-Gov2.pdf>]

McDiarmid, G. Williamson et al, *Expanding Job Opportunities for Alaska Natives*. Institute of Social and Economic Research, University of Alaska Anchorage, November 1998.

[<http://www.ankn.uaf.edu/ISER/coverack.pdf>]

Institute for Circumpolar Health Studies, University of Alaska Anchorage, *Alaska Natives Combating Substance Abuse and Related Violence Through Self-Healing*. January 1999.

[<http://www.ankn.uaf.edu/afnreportsub.pdf>]